

§ 452.75

long as all candidates are given equal opportunity to submit such data.

§ 452.75 Union newspapers.

The provisions of section 401(g) prohibit any showing of preference by a labor organization or its officers which is advanced through the use of union funds to criticize or praise any candidate. Thus, a union may neither attack a candidate in a union-financed publication nor urge the nomination or election of a candidate in a union-financed letter to the members. Any such expenditure regardless of the amount, constitutes a violation of section 401(g).³⁸

§ 452.76 Campaigning by union officers.

Unless restricted by constitutional provisions to the contrary, union officers and employees retain their rights as members to participate in the affairs of the union, including campaigning activities on behalf of either faction in an election. However, such campaigning must not involve the expenditure of funds in violation of section 401(g). Accordingly, officers and employees may not campaign on time that is paid for by the union, nor use union funds, facilities, equipment, stationery, etc., to assist them in such campaigning. Campaigning incidental to regular union business would not be a violation.

§ 452.77 Permissible use of union funds.

Certain uses of union funds are considered permissible under section 401(g). For example, a court ruled that money of a subordinate union may be contributed to a committee formed to challenge the results of a national union election under title IV when such contributions are properly authorized by the members in an effort to pursue election remedies both within and outside the union. In holding such activity to be outside the prohibitions of section 401(g), although the com-

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mittee was formed by defeated candidates and their supporters, the court stated that “* * * It does not promote the candidacy of any person if an election is declared invalid by a court under title IV’s procedure despite the fact that in the rerun election the candidates may be identical. Neither the winner nor the loser of the disputed election gains votes by the setting aside of the election. Such action is not a vote-getting device but merely returns the parties to their pre-election status; it does not place any candidate into office.”³⁹

[38 FR 18324, July 9, 1973, as amended at 63 FR 33780, June 19, 1998]

§ 452.78 Expenditures by employers.

(a) As an additional safeguard, section 401(g) provides that no money of an employer is to be contributed or applied to promote the candidacy of any person in an election subject to the provisions of title IV. This includes indirect as well as direct expenditures. Thus, for example, campaigning by union stewards on company time with the approval of the employer would violate section 401(g) unless it can be shown that they are on legitimate work assignments, and that their campaign activities are only incidental to the performance of their assigned task and do not interfere with its performance. This prohibition against the use of employer money includes any costs incurred by an employer, or anything of value contributed by an employer, in order to support the candidacy of any individual in an election. It would not, however, extend to ordinary business practices which result in conferring a benefit, such as, for example, a discount on the cost of printing campaign literature which is made available on the same terms to other customers.

(b) The prohibition against the use of employer money to support the candidacy of a person in any election subject to the provisions of title IV is not restricted to employers who employ members of the labor organization in which the election is being conducted,

³⁸ *Hodgson v. Liquor Salesmen’s Union, Local No. 2*, 334 F.Supp. 1369 (S.D. N.Y.) aff’d 444 F.2d 1344 (C.A. 2 1971); *Shultz v. Local Union 6799, United Steelworkers*, 426 F.2d 969 (C.A. 9 1970).

³⁹ *Retail Clerks Union, Local 648 v. Retail Clerks International Association*, 299 F.Supp. 1012, 1024 (D.D.C. 1969).